

APPEAL NO. 050069
FILED MARCH 3, 2005

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 29, 2004. The hearing officer determined that the appellant/cross-respondent (claimant) had disability from December 1, 2003, and continuing through May 18, 2004, and at no other times. The claimant appealed that portion of the disability determination that was adverse to the claimant, arguing that the only period in dispute was from December 1, 2003, through May 18, 2004, and that the language "at no other times" was not a period in dispute before the hearing officer to resolve. The respondent/cross-appellant (carrier) appealed the disability determination based on sufficiency of the evidence grounds.

DECISION

Reverse and render in part and affirm in part.

At issue was "Did the Claimant have disability resulting from a compensable injury sustained on _____, and if so, for what periods?" The record reflects that the parties stipulated that the claimant sustained a compensable injury on _____, and the parties agreed to limit the disability issue to a period of December 1, 2003, to May 18, 2004. The claimant appealed, asserting that he agreed with the hearing officer's disability determination for the period of December 1, 2003, and continuing through May 18, 2004; however, the claimant complained that the hearing officer found a disability period beyond the agreed period in dispute by determining that the claimant did not have disability "at no other times."

The disability issue is a question of fact for the hearing officer to resolve. We have reviewed the complained-of determination and conclude that the issue involved a fact question for the hearing officer. The evidence supports the hearing officer's determination that the claimant had disability from December 1, 2003, and continuing through May 18, 2004. However, given that the parties agreed to the disability period in dispute, the hearing officer erred in determining that the claimant did not have disability "at no other times."

Accordingly, we reverse that portion of the hearing officer's decision that the claimant did not have disability "at no other times" and we render a decision striking the "at no other times" language from the decision and order. We affirm the hearing officer's decision that the claimant had disability from December 1, 2003, through May 18, 2004.

The true corporate name of the insurance carrier is **ALEA NORTH AMERICA INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET
AUSTIN, TEXAS 78701.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge